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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION**

TERRY LEONARD, STEVEN
KENDLEY, MICHEL GEHL, BEN
WOODS, and LEVI READ,

Plaintiffs,

v.

ALAN JAY DOYLE, MICHAEL
SARGEANT, DAN DURYEE and DAN
YONKIN,

Defendants.

Case No. CV-12-25-M-DLC-JCL

**STATEMENT OF GENUINE
ISSUES OF FACT REGARDING
THE 1983 CIVIL RIGHTS
CLAIM AND DAMAGES
RELATED TO RICO CLAIMS**

1. On September 29th, 2010, Lake County Attorney, Mitchell Young completed and brought before District Court Judge CB McNeil an application for a search warrant. (Exhibit A) The application for the search warrant sought to search the house of Plaintiff, Terry Leonard and to seize any computer equipment contained within Mr. Leonard's house. The warrant allowed for the search of Leonard's house for computers and for the seizure of the same.

2. All of Terry Leonard's computer equipment as well as his families' computer equipment were seized on September 29th, 2010. At the time, Plaintiff Steven Kendley and Defendant, Jay Doyle as well as Defendant, Dan Yonkin were involved in a highly contentious race for Lake County Sheriff. Terry Leonard was operating a website which opposed Jay Doyle's election for Sheriff. Although Montana Law §46-5-301 MCA provides a return must be filed after execution of a search warrant, no such return was ever made by the Lake County Sheriff's Department. All of the Plaintiffs openly supported Kendley in the election.

3. On February 1st, 2011, Leonard's Attorney, Richard Buley, sent to the Lake County Attorney, Mitch Young, a letter requesting return of Mr. Leonard's equipment. (Exhibit B) The letter further requested of Mr. Young information regarding whether or not any search had been made of Mr. Leonard's computer property. At the time, neither Mr. Leonard nor his Attorney were aware that the County Attorney and the Sheriff's Department had seized all of the computer property and had done absolutely nothing with it between September 29th, 2010 and February 1st, 2011. Therefore, the obvious purpose in obtaining the search warrant which allowed the Sheriff's Department to seize Terry Leonard's computer equipment was to silence his First Amendment Rights under the United State Constitution and to prevent him from making statements regarding the Sheriff's election.

4. After receiving the letter from Attorney Buley, the County Attorney Mitch Young then went to Defendant, Dan Yonkin. (Deposition of Yonkin pg 18, Exhibit C) There was a concern that although the original search warrant allowed for the search of Leonard's home and the seizure of the computer equipment that the warrant did not specifically allow for the search of the computers. (Id) After receiving the letter from Attorney Buley and after having the conversation with County Attorney, Mitch Young. Yonkin then searched Mr. Leonard's computers. (Yonkin Deposition pg 21, Exhibit C)

5. Defendant Yonkin downloaded all of the information contained on Mr. Leonard's computers onto a hard drive which was owned by the Sheriff's Department and kept by the Sheriff's Department. (Yonkin Deposition pg 21-23, Exhibit C) He did this at the direction of Defendant, Michael Sargeant. (Yonkin Deposition pg 23, Exhibit C) All of this was done shortly after February 1st, 2011. Then, all of Leonard's computer equipment was returned to him on February 10th, 2011. Leonard was not informed that the Sheriff's Department retained a hard drive containing all of Leonard's computer data nor was he informed that the Sheriff's Department had searched his computers and taken the data.

6. On May 6th, 2011, three months AFTER searching Leonard's computer, Defendant Yonkin prepared and signed an application for another search warrant to the Justice of the Peace, Chuck Wall. (Yonkin deposition pg 23, Exhibit C and Exhibit D) Yonkin testified that he was once again asked to download Leonard's

computer data, which had been taken from his computers and downloaded onto a Sheriff's Department hard drive and then download the information from the hard drive to a CD.

7. Shortly before writing the application to search his own hard drive, Defendant Yonkin stated he was directed to do so by Defendant Lieutenant Michael Sargeant. (Yonkin deposition pg 28 Exhibit C)

8. In preparing his application for a search warrant, Yonkin closely followed the application used for the search warrant prepared by Mitch Young in September 2010. (Exhibit A and Yonkin deposition pgs 28-29 Exhibit C)

9. The one major difference between the two applications for search warrant is that in the original application for a search warrant submitted by County Attorney Young stated that the Sheriff's Office had received information:

“ from an anonymous source whom undersheriff Doyle knows to be a reliable informant copy of email messages from Terry Leonard and other individuals.”

(Yonkin Deposition Exhibit C)

10. In the search warrant application prepared by Yonkin, (Exhibit D), it is stated that during the investigation Undersheriff Doyle received copies of emails from former sheriff deputy Patrick O'Connor (Exhibit D and Yonkin Deposition pg 28 Exhibit C) Yonkin testified that he had obtained that information directly from Sheriff Doyle.(Id)

11. At this time, Patrick O'Connor was a former sheriff's deputy. He had been fired because he had been stalking his ex girlfriend, a probation officer named Amy Rehbein. (Yonkin deposition pgs 33-34 Exhibit C) Although Patrick O'Conner has filed an affidavit stating that he is not particularly talented at working with computers Yonkin testified that "Pat is a computer geek" (Yonkin deposition pg 34 Exhibit C) Further, Patrick O'Conner was known to have a high interest in all kinds of computers. (Yonkin deposition pg 35 Exhibit C) Obviously, O'Conner was attempting to get into the good graces of Defendant Sheriff Doyle since after Doyle's election as Sheriff, O'Conner sought to be rehired with the Lake County Sheriff's Department and Doyle told them that he would be unable to do so. (Yonkin deposition pg 37 Exhibit C)

12. Although the search warrant was issued in May of 2011, a return on that warrant was not made until September 28th, 2011. (Exhibit E)

13. The return on the second search warrant was apparently prompted by a letter written by Leonard's Attorney to Mark Russell, Deputy County Attorney of the Lake County Attorney's Office on August 16th, 2011. (Exhibit F)

14. On November 11th, 2011, the Montana Commissioner Political Practices issued its' Statement of Facts, Summary of Findings and Order of Dismissal regarding a Complaint filed against the websites run by Terry Leonard. (Exhibit G) Interestingly enough, according to the findings of the Commissioner, the Complaint against the websites and Leonard was initiated on April 13th, 2010 by "Lake County

resident, Lanny VanMeter”. Lanny Van Meter was a Sheriff’s Deputy with the Lake County Sheriff’s Office and was a supporter of Undersheriff Doyle in the sheriff’s race. The conclusions of law by the Commissioner state that not only did the websites not violate any Montana Law but rather, Leonard’s websites constituted an express exercise of the Leonard’s First Amendment Right to Political Speech. (Exhibit G pg 12)

15. After Jay Doyle became Sheriff, the harassment and intimidation of the Plaintiffs began in earnest. In December of 2010 Defendant Mike Sargeant approached Ben Woods about a photo of a nude woman posed by a Sheriff’s Deputy vehicle. (Deposition of Ben Woods pg 28) The photo had been one that was on Ben Woods’ home computer which was not used for Sheriff’s business at all. (Woods deposition pg 13) According to Woods, whoever obtained the photo must have hacked into his computer (Woods Deposition pg 15)

16. According to Mike Sargeant, he obtained the photo on a cd in a plain manila envelope which was in his mailbox. The mailbox was in a secure area and according to Sargeant, he has no idea how the cd was delivered to him. There was no information on the cd or the photograph which in any way would identify Ben Woods and no one in the Sheriff’s department had ever met the person depicted in the photograph. Although the cd magically appeared in his office in a secure area, Lt. Sargeant testified that he was so incurious that he never made any attempt to find out from his receptionist or anyone else how the cd got to be in his office. (Sargeant

Deposition pg 21) Lt. Sargeant stated that at the direction of Sheriff Doyle, he then went about trying to identify the subject and which deputy was involved. One would think that task would be easier if Sargeant found out who gave him the cd. Then he could just ask that person. According to Sargeant he “put out feelers”. (Sargeant’s Deposition pg 22) He then stated he was given information that the person may be someone working at the Missoula City Police Department. (Id) However, Lt. Sargeant, the head of the detectives at the Lake County Sheriff’s Department, could not remember who told him this, how that person would know, and he could not remember how he identified Ben Woods. (Sargeant Deposition pg 22-23) Further, curiously enough the Lieutenant in charge of detectives and investigations supposedly kept no notes of his investigation.

17. The testimony of Sargeant was simply not credible since the woman in the photograph did not know anybody in Lake County at the time. (Woods Deposition pg 27)

18. Plaintiff Woods felt that the entire incident regarding the photos and subsequent discipline was designed to intimidate him for his in exact retribution for his opposition of Doyle and the other members of the Coyote Club. (Woods Deposition pg 31) Woods was suspended for 4 days without pay. In contrast, Dan Duryee who lied about being a marine for 10 years and who had obtained promotions based upon his lies was never disciplined.

19. Because of Woods' opposition to Doyle and the Coyote Club, he testified that he had suffered a loss of pay. Of course, there was the four days of lost wages as well as the fact that he was not invited back to participate in the special response team which meant the loss of 9 hours of overtime at \$30 an hr. (Woods Deposition pg 46-47)

20. Plaintiff Levi Read gave statements to both Frank Bowen and the POST council regarding the Coyote Club. (Read Deposition pg 50-53)

21. Levi Read was also the person who exposed Dan Duryee as having never been in the marines. Although Defendants contend there is no evidence of the existence of the "Coyote Club". Deputy Read testified that he was specifically told about the Coyote Club from member Deputy Ryan Funke. (Read Deposition pg 53-54) In retaliation for talking to Frank Bowen, Read was removed from his position as a field training officer even though his immediate supervisor, Sergeant Mike Carlson felt that Read was the best field training officer they had had in some time. (Read Deposition pg 84-88). The removal from the field training officer position cost Read an economic damage of \$.50 an hr while he was training. Further, Plaintiff Read was denied the coordinator for Search and Rescue. (Read Deposition 119) Read was also denied a spot as a sniper on the special response team which was a loss of 9 hrs of overtime. (Read Deposition pgs 120-122)

22. In October of 2001, Plaintiff Steven Kendley went hunting with Defendant, Michel Sargeant. During the hunt, Kendley shot an antelope. While

Kendley went back to get the truck to haul the animal out, Sargeant volunteered to gut the animal. (Kendley Deposition pg 52-53) When Kendley arrived Sargeant had already tagged the antelope with his own tag. (Id) Later Sargeant bragged to numerous people that he had stalked and shot the animal. (Kendley Deposition pg 54) Within a week or two of this bragging, Mike Sargeant made the comment to Kendley “Stevie you can’t break the law if you are the law.” (Kendley Deposition pg 54) Sargeant then winked and grinned and walked away. (Id) Within a week after that, Wade Nash and Defendant Dan Duryee were in the patrol room when Kendley walked in and stated they wanted to talk about the antelope that Mike Sargeant supposedly shot. (Kendley Deposition pg 55) Duryee and Wade Nash stated that they knew that Kendley had shot the antelope because between them they had shot every animal that Mike Sargeant had ever tagged. (Id)

23. Kendley, after suffering a work related injury, was not allowed to come back to the Sheriff’s Department as a Detective by Jay Doyle, although Kendley could have resumed his duties as a detective. While Kendley was out on medical leave, Doyle changed his position from detective to patrol. (Kendley Deposition pg 68) However, because of the injury to his wrist he was unable to be a patrol officer. (Kendley Deposition pg 71)

24. Plaintiff Michael Gehl also heard Mike Sargeant state that “you can’t break the law if you are the law”. (Gehl Deposition pg 77) Gehl had been hired to the Lake County Sheriff’s Office as an investigator directly from the Montana Highway

Patrol. (Gehl Deposition pg 9) Both Gehl and Kendley had gone to the Attorney General's Office to complain about the corrupt activity in the Lake County Sheriff's Department (Gehl Deposition pg 22). Gehl believed he was suspended without pay and demoted because of his visit with the Attorney General to complain about illegal activities within the Sheriff's Department. (Gehl Deposition pg 47) Defendant Doyle then transferred Gehl from being a detective to being in the position of sexual violent offender registry. (Gehl Deposition pg 48) Gehl was later placed on patrol, however, he was put into patrol vehicles which did not suit his rather large size. (Gehl Deposition pg 55-57) Then, in violation of a grievance settlement, Doyle attempted to cut back Gehl's hours. (Gehl Deposition pg 59-60)

25. In 2011, Gehl was denied a promotion to Detective after the job posting was modified by Defendant Mike Sargeant to fit the credentials of another applicant. (Gehl Deposition pg 78)

26. Subsequently, Gehl suffered a job related injury and was off duty for 6 months. (Gehl Deposition pg 88) As Gehl was preparing to go back to duty, he had a meeting with Defendant, Dan Yonkin, in which Yonkin told Gehl that if he came back to his duties with Lake County Sheriff's Department, that Yonkin, as Gehl's supervisor could not provide for Gehl's safety. (Gehl Deposition pg 87) Specifically, Yonkin told Gehl that Gehl was not liked in the department and that nobody could provide for his safety. (Gehl Deposition pg 93) Although Yonkin could not tell Gehl who he had to fear, Gehl believed it was known between the two of them that it was

Defendant, Dan Duryee. (Gehl Deposition pg 96) Gehl then went home and in consultation with his wife decided that it would be in their best interest if Gehl were to resign after the threats and he resigned from his job with the Sheriff's Department.

27. Steven Kendley was a candidate for sheriff in the November 2010 election. (Kendley Deposition pg 910) Defendant, Jay Doyle was also a candidate and ended up winning the election. (Id)

28. As set forth above, Terry Leonard, who was no longer a member of the sheriff's department started a website opposing Jay Doyle.

29. Steve Kendley had become aware that Deputy Dan Duryee had converted a service rifle to a fully automatic machine gun. Kendley was aware that this was illegal. Kendley implored Duryee to register the now machine gun and even offered to fill out the Bureau of Alcohol, Tobacco and Firearms(BATF) form for him. Because Duryee refused, Kendley complained to both the Sheriff and the BATF and submitted a statement to the BATF (Exhibit H) *Responses to Requests for Production* # 23.

30. Steve Kendley was also very concerned about the theft of thousands of rounds of ammunition that had been donated to the Lake County Sheriff's Office. (Kendley Deposition pg 28)

31. Kendley and Sargeant Mike Carlson had been put in charge in trying to track ammunition kept by the Sheriff's Department. (Kendley Deposition pgs 30-31) During this time, a citizen donated 4000 rounds of .308 caliber ammunition. Dan

Duryee had been in charge of the ammunition. (Kendley Deposition pg 32) Duryee had turned over the ammunition to Mike Carlson who then turned it over to Kendley. (Id) After investigating, Kendley was concerned there appeared to be about 21,000 rounds of ammunition missing from the LCSO. (Kendley Deposition pg 36) Because of his concern, Kendley went to Helena to meet with the State Attorney General's Office and the Department of Criminal Investigations to inform them of the matter. (Kendley Deposition pg 37) However, Kendley was told that unless the County Attorney, Mitch Young or the Sheriff himself invited an investigation they would conduct no investigation. (Kendley Deposition pg 38)

32. Plaintiff, Mike Gehl also went to that meeting with complaints about other aspects of the Sheriff's Department.

33. Plaintiff's Gehl, Kendley and Read all complained to the POST Council regarding Daniel Duryee's false claims of military service. Eventually, a hearing was held before an Administrative Law Judge (ALJ) who recommended that Duryee lose his Peace Officer Certification because of his continued falsification of a military record. (Exhibit I) The POST Council then did revoke Duryee's certification.

34. During the months leading to the election, Dan Duryee sent a letter to Mike Gehl who was the President of the Local Bargaining Agent for the Sheriff's Deputies, the AFFCME. (Exhibit J) In that letter Duryee contended that once, several years ago, while out with friends he told a "fish story" that he had been in a military, but that was a lie. In the letter, Duryee had complaints about all of the Plaintiffs. Page

2 states that the POST Council had requested that Duryee be placed on administrative leave until a mental fitness evaluation was concluded. Duryee wrote that on September 2nd he was cleared to come back to work. The letter, once again, is dated September 3rd. Interestingly enough, even though Sargeant Duryee had been placed on administrative leave, he was in a position to write “it should be noted that Lake County, Mitch Young is pursuing criminal charges against [concerned citizens, Terry Leonard’s website] for violations of the Montana Political Practice Laws. Subpoenas have been served to the administrators and newspapers as part of this criminal investigation.” There had been no public release of any sort of information regarding an investigation until after the search warrant had been served on Terry Leonard’s house on October 1st, 2010.

35. Since the application for the search warrant states that Jay Doyle, candidate for sheriff was himself conducting the investigation, there was communication about the investigation between Jay Doyle, Mitch Young, and the suspended Dan Duryee.

36. After Doyle was elected Sheriff, Steve Kendley and Mike Gehl were both given notice of investigations into their conduct and providing information to the Department of Criminal Investigations (DCI) and the Attorney General regarding issues from Lake County. (See Response to Request for Prod #28 & 29) Exhibits K & L) During the investigations, Both Gehl and Kendley were accused of violating an Order of the Previous Sheriff, Lucky Larson for supposedly going over Larson’s head

directly to the Attorney General and DCI regarding complaints of criminal activity in the LCSO. (Id) (CD recordings of the interviews Exhibits P & Q) In fact, Jay Doyle Sheriff of Lake County wrote a letter to the local union representative dated February 22, 201. (Exhibit M) “It has come to my attention that two deputies, (Gehl and Kendley) had gone to Helena to talk to the Attorney General regarding allegations of wrongdoing within the Sheriff’s Office. ...This would be in direct violation of an order given by former Sheriff Larson to all Lake County employees not to conduct any investigations into any officer in the department without advising him (the Sheriff) first.”

37. Although Sheriff Doyle instigated these disciplinary investigations, when asked at his deposition if the Sheriff’s Department could legitimately order Peace Officers not to report crimes, he stated “No”. (Doyle Deposition pgs 60-61)

38. Neither Kendley nor Gehl were disciplined directly from these allegations.

39. Although Doyle did not discipline Gehl directly for going to the AG’s office, Doyle did remove Gehl from his position as Detective and assigned him to Detention. (Exhibit P) This was based upon a trumped up charge that Gehl had somehow communicated with an inmate at the MT State prison regarding an old case. There is no evidence that Gehl had ever done so. The demotion of Gehl was grieved, and eventually the parties reached a settlement. However, Gehl was not reinstated to his Detective position and further had lost two weeks of pay as part of a suspension. (Exhibit Q)

40. The demotion of Gehl was a pretext and subterfuge designed to punish Gehl for reporting crimes and supporting Kendley for the office of Sheriff and violation of his constitutional rights.

41. Meanwhile, Plaintiff Kendley was facing his own retribution from Sheriff Doyle. On October 20th, 2011, Doyle sent to Kendley a letter stating that the funding for his position of Domestic Abuse Investigator had ended. At the time, Kendley was not just a Domestic Abuse Investigator but was a full detective in the LCSO. (Exhibit R) At the time, Kendley was on a medical leave due to a wrist injury which made him physically unable to perform the duties of patrolman, to which he had been demoted. On February 28, 2012, LCSO posted an announcement for the position of Detective. (Exhibit S) Kendley applied for the position along with one other officer. After interviewing the two candidates, Sheriff Doyle opened the position to out of house applicants in violation of the Union contract. This was grieved by Kendley and immediately, Doyle hired the other candidate to the Detective position. The other candidate had only recently received her basic public safety officer certificate in June of 2011. She had a total of 235 POST credits and none of those were in investigations. On the other hand, Kendley has had basic, intermediate and advanced POST certificates as well as experience as a detective and was eligible to obtain his POST certification as a master instructor for investigation of domestic violence. His total POST credit hours total 733, many of those were in interviewing and

interrogation and sexual assault investigation and other detective level courses as set for in the transcript attached in the (Affidavit of Steven Kendley).

42. Defendant Duryee never received any discipline from The LCSO for his continued lying about his previous military service, even though he had been made SWAT Team Leader based upon the bogus military service, Plaintiff, Levi Read the person who actually exposed Duryees lies was disciplined after making a written complaint. (Read deposition pg 86) Levi Read was suspended for one day supposedly because he had used department records to fill out the necessary information for a freedom of information request to the Marine Corps to find out whether or not Duryee was a veteran. (See Sworn Testimony of Levi Read at Duryee Disciplinary Hearing pgs 80-83)

43. According to Warden Bowen's files, he began investigating poaching activities on March 30, 2010 regarding a person named Jesse Paul Jacobs. (See Exhibit T, Letter to Montana Department of Criminal Investigation.) At the time Mr. Jesse Jacobs was a reserve deputy of the Lake County Sheriff's Office and intended to be hired as a deputy by the Lake County Sheriff's Office. In the course of the investigations into Jesse Jacobs, an Information charging Jacobs with two felony counts of poaching a moose was filed in Flathead County District Court on August 10, 2010. (Exhibit U) A copy of the Motion for Leave and Affidavit in support of filing the information is attached hereto with Exhibit U, setting forth a summary of the allegations against Mr. Jacobs.

44. The primary witnesses against Jesse Jacobs included his ex wife, Aimee Jacobs Gould and her mother, Deborah Gould. During the course of the investigation, it became apparent that Jesse Jacobs was using his position and contacts within the Lake County Sheriff's office to intimidate Aimee. As set forth in an investigative report by Warden Bowen, "Jesse is an electrician for Plum Creek and works at their MDF mill in Columbia Falls. Jesse is a reserve deputy for Lake County and is trying to become a fulltime peace officer. This concerns her (Aimee Jacobs) because Jesse has violent tendencies and has made many threats towards her and others. Jesse claims to have used his position with Lake County to unlawfully look in to the criminal history and background of her, her family members and her friends. She had a Restraining Order against Jesse but she was forced to drop it due to concerns about losing custody of her son." (Exhibit V, pg 4)

45. From that investigation, Warden Bowen eventually sent a report to the Flathead County Attorney's Office with a request to prosecute Jesse Jacobs for tampering with a witness, Aimee Jacobs. The report included photographs of threatening text messages as well as phone conversations. (Exhibit X) In this report, on page 2, Warden Bowen stated that the original tip which began the case named Lake County Chief Detective Mike Sargeant as a suspect in poaching. Michael Sargeant is a Defendant in this case.

It is not believed that the Flathead County Attorney's Office ever charged Jacobs with tampering of a witness or obstruction of justice.

46. After Jacobs was charged, Warden Bowen received information from Aimee Jacobs stating that it was quite apparent to her that Jesse Jacobs had obtained information about her as well as her friends from unauthorized criminal justice information network searches. (Exhibit Y) As stated by Warden Bowen, “Believing that attempts to intimidate the potential witnesses in the case were taking place, I decided to talk to Sheriff Larson about it. I called Lake County Sheriff Lucky Larson to inform him of the investigation against Jacobs, I told Sheriff Larson about my concerns regarding the unlawful use of CJIN as well. Sheriff Larson assured me he would look into the CJIN issue.” (Exhibit Y pg 2) At the time Lucky Larson was the Lake County Sheriff and the undersheriff at the time was Defendant, Jay Doyle.

47. As noted by Warden Bowen in the same report, he had begun investigating Lake County Sheriff’s Deputies regarding alleged poaching at that time and began to question whether or not Sheriff Larson had ever investigated the unlawful use of CJIN information which was then used to intimidate witnesses. (Id) Warden Bowen then contacted CJIN directly to determine whether or not any investigation had been done by the Lake County Sheriff’s Department, and learned that no investigation had been done. (Id)

48. Since Sheriff Larson had refused to investigate the unlawful access to the CJIN, Warden Bowen undertook his own investigation. From his investigation Warden Bowen prepared a report addressed to POST (Peace Officers Standards and Training) Director Wayne Ternes. Warden Bowen found that a Lake County Sheriff’s

Deputy, Nathan Lundeen, had been the person who had accessed the CJIN information about Aimee Jacobs and her friends. (Exhibit Z) Since the information gained by Nathan Lundeen led to the intimidation of Aimee Jacobs by Jesse Jacobs, Warden Bowen believed that Deputy Lundeen was involved in a conspiracy with Jacobs to commit felony witness tampering. (Id) By refusing to investigate, the LCSO acted to cover up the illegal acts.

49. Warden Bowen also learned from Aimee Jacobs that Jesse Jacobs had illegally hunted with Defendant Mike Sargeant as well as Deputy Nathan Lundeen (Exhibit AA). Warden Bowen then began an investigation into Defendant Michael Sargeant's activities. Warden Bowen prepared an extensive report directed to POST Director Ternes regarding Sargeant and felt that Sargeant was possibly guilty of multiple Fish and Game violations, felony unlawful possession of game animals, obstructing justice, possible felony evidence tampering and conspiracy to commit other crimes. (Exhibit BB) Included in the documents forwarded to POST Director Ternes was an investigative report prepared by Warden Bowen regarding an interview he had with Bill Witts who was a retired deputy from Lake County Sheriff's Office. (Exhibit CC)

50. Mr. Witts told Warden Bowen that he was well aware of the "Coyote Club" and was aware of at least two instances where Defendant Mike Sargeant had illegally shot game. He had received this information from Michael Sargeant's girlfriend at the time, Jennifer Cannon; however, Jennifer Cannon was apparently

very afraid of Sargeant. The information included Sargeant shooting a deer from a Lake County Sheriff's patrol car with a spotlight. (Id) Included in the investigative material of Warden Bowen was an interview with a Dr. Oliver Whipple who stated that he was a close acquaintance of Detective Mike Sargeant and that Sargeant often bragged about taking game illegally on the CSKT Reservation because he would hunt with Jason Nash who was a tribal officer. (Exhibit DD) Perhaps the most important part of the interview is the following "when Doc asked if they were afraid of getting caught hunting illegally, Sargeant made it very clear that, (in Doc's words) "Nobody fucks with the Lake County Sheriff's Office, we take care of our own". (Id, pg 2)

51. Jason Nash was and continues to be a law enforcement officer for the Confederated and Salish Kootenai Tribe. In conducting the investigation, Warden Bowen took a taped statement from Lake County Patrol Deputy Mike Carlson. According to Warden Bowen's report, (Exhibit EE), Carlson stated that he had in fact known of the Coyote Club, and its members included Tribal Officer Jason Nash, former Lake County Deputy Wade Nash, Defendant Dan Duryee, Defendant Michael Sargeant, and Lake County Deputy Ryan Funke. Further, Carlson had actually heard former Sheriff Bill Barron and Defendant Deputy Dan Duryee state, in response to complaints by Montana Highway Patrol Officer Mike Kent that Duryee was routinely speeding and driving recklessly in his Lake County patrol car, "You can't break the law if you are the law." (Id) Eventually, Warden Bowen gave all of the information he had gathered about Jason Nash to Craig Couture the chief of the Confederated

Salish Kootenai Tribes' tribal police. (Exhibit FF) Nash has never been prosecuted by tribal police and is still employed as a tribal officer.

52. It is not surprising that Craig Couture, chief of CSKT, refused to do anything about Jason Nash, as it appears that Mr. Couture has had his own problems that he did not wish to come to light. At one time, Craig Couture worked on the Northwest Drug Task Force with officers from other agencies. One of the other officers that worked for the northwest drug task force was Jason Nash's cousin, Wade Nash, who was a Lake County Sheriff's Office Deputy. Wade Nash is presently the Chief of Police of Polson City. Warden Bowen eventually discovered that a thermos of cocaine which had been seized in an investigation, rather than being placed in evidence, was kept by Craig Couture on his office desk as something of a trophy. (Exhibit GG pg 2) Eventually, the entire thermos of cocaine went missing. (Id) Wade Nash confirmed in his deposition that the thermos of cocaine was kept in Couture's office. (Wade Nash deposition pg 11) Further, the thermos of cocaine was last seen in Wade Nash's duffel bag on Wade Nash's desk. (Wade Nash Deposition pg 13-14) Eventually Craig Couture stated to Warden Bowen that the disappearance of the thermos of cocaine had been investigated by the Montana Department of Criminal Investigations. Warden Bowen contacted DCI investigators and determined that, in fact, the subject of the missing thermos of cocaine had never been brought to DCI and that DCI had never investigated the incident. (Exhibit HH)

53. The Drug Task Force sold a number of seized rifles to an individual. It was discovered that scopes had been taken off the rifles and had disappeared. Wade Nash eventually admitted to Lake County Patrol Sergeant Mike Carlson that he had in fact taken scopes from seized rifles and that Craig Couture had also taken some. (Exhibit II) (Wade Nash Deposition pg 18-19)

54. Since the chief of the tribal police, Craig Couture, declined to do anything in regard to one of his officers, Jason Nash, Warden Bowen put together a summary of charges against Jason Nash for the Tribal prosecutor's office. (Exhibit JJ) Within that document are numerous statements showing Nash acted in concert with Detective Mike Sargeant and Deputy Dan Duryee to conduct illegal hunting upon Tribal property.

55. Further evidence of the existence of the criminal conspiracy, the "Coyote Club", is contained in Exhibit EE. Lake County Patrol Sergeant Mike Carlson stated that he had been told by former Lake County Deputy Lance Ewers, now living in Alaska, that Defendant Dan Duryee had tried to force Ewers to kill an animal illegally to become part of the "Coyote Club". A summary of Warden Bowen's interview with Lance Ewers is also contained in Exhibit M pgs 4 and 5.

56. Warden Bowen expanded his investigation, to include Jason Nash and Defendant Michael Sargeant. Jason Nash was and is a Confederated Salish Kootenai Tribal Officer. Michael Sargeant in his deposition in this case stated that he had not hunted with Jason Nash for 10 to 12 years, maybe the last time was in 1999.

(Transcript pg 8) He further stated that he had used David Farrar and Ed Farrar to process meat and to mount trophies. (Sargeant deposition pgs 8 & 9) However, in the course of the investigation, Warden Bowen obtained taxidermy and game processing records from both Ed and Dave Farrar. (Exhibits KK & LL) Ed Farrar's records show that in 1997, Mike Sargeant brought in a deer for mounting on August 1st, 1997, 2 deer on September 24th, 1997, one deer on November 1st, 1997, another deer on November 23rd, 1997. In other words, Sargeant shot and mounted at least 5 deer in 1997. Of course, he may have shot other animals and not had them mounted.

In August of 1998, Mike Sargeant brought a bear to be mounted and Jason Nash brought a deer on the same date. Then, a couple weeks later, Michael Sargeant brought in another bear. On October 1st, 1998 Sargeant brought in an elk and a deer while Jason Nash brought in a deer. Finally, in 1998 Sargeant then brought in 2 more deer on December 7th, the same date in which Defendant, Dan Duryee brought in a bear and a deer.

57. Although Sargeant denied hunting with Jason Nash after 1999, David Farrar's records show that on November 30th, 2004 Sargeant and Nash came to David Farrar's shop to mount a bull elk for Sargeant and a whitetail buck for Jason Nash. Earlier, on November 4th, 2004 Michael Sargeant, Deputy Wade Nash and Deputy Clint Cottle brought in mule deer and whitetail deer to be shoulder mounted. On August 31st and September 7th, 2004 Jason Nash brought in two bull elks. On November 27th, 2002 Michael Sargeant and Jason Nash brought in whitetail bucks to

be shoulder mounted. 2003 was another productive year for Jason Nash as in September he brought in two elk bulls.

In 2002 Jason Nash brought in a bear to be made into rug. Michael Sargeant brought in a full bear, (his 3rd since 1999). In 2001, Mike Sargeant had an antelope buck, and a mule deer buck, mounted. Jason Nash had a whitetail deer buck, mule deer buck, and a whitetail buck all mounted.

58. Therefore, between 2001 and 2005, Sargeant brought 8 big game animals for taxidermy services to David Farrar including an entire bear. Jason Nash had 10 animals in the same time period including a bull moose and a bear. Between 1996 and 2001, Sargeant brought in to Ed Farrar's shop 12 deer, 2 bears and 1 elk. In the same time period, Jason Nash brought 12 deer to Ed Farrar's shop. Sargeant testified in his depositions that he only has 4 mounts in his possession. (Sargeant Deposition pg 10)

59. As Frank Bowen testified in his deposition, the records clearly show there were bears taken in August when there is no way that bears could be legally killed.(Bowen Deposition, pg 33) Further, the huge number of animals that Mike Sargeant was killing could not be legally harvested over that period of time. (Id) Possession of the trophies, mounts and rugs would constitute unlawful possession of illegally taken game animals. (Id)

60. Of course, the incredible number of animals meant there was an incredible amount of meat. Not only did Jason Nash and Mike Sargeant pick up the meat, others such as Dan Duryee's ex-wife and Mike Sargeant's girlfriend at the time, did also.

(Bowen Deposition pgs 38 & 39) Bowen interviewed Jason Nash and was told by Nash he gave Sergeant some antlers and hides, but never any meat, as that is unlawful. (Bowen Deposition pg 88 & 89) While Bowen's investigation was ongoing, Jason Nash told Bowen that he and Lake County Deputy Ryan Funke had removed numerous animal mounts from Michael Sargeant's residence. (Bowen Deposition pg 89-90) Deputy Ryan Funke refused to be interviewed. (Id) Since Sargeant has testified that he has only 4 mounts presently, it appears that Nash, Funke, and Sargeant have been involved in hiding or destroying evidence of Sargeant's poaching. (Bowen Deposition pg 92)

61. Jason Nash, Michael Sargeant's hunting partner, sponsored hunts on the reservation with the trophies and meat being taken across state lines to Oregon in violation of the Lacey Act. (Bowen Deposition pgs 42-44)(Exhibit MM)

62. During Bowen's investigation, he attempted to talk to a number of witnesses including ex wives and ex girlfriends and other acquaintances of the Defendants, Jason and Wade Nash. Bowen described that all of the witnesses were very scared to talk to him including the ex wife of Dan Duryee, the ex girlfriend of Michael Sargeant, and other witnesses who felt totally intimidated and who were scared of retribution. (Bowen depo pgs 44-48)

63. After Terry Leonard's website began urging voters to ask sheriff candidate, Jay Doyle about the Coyote Club in the Spring of 2010, strange things began happening. Wade Nash in his deposition testified that the "Coyote Club"

originated in the downstairs of the Sheriff's Office in probably 1997 or 1998. (W. Nash Deposition pg 6) He stated that Michael Sargeant was there and that Sargeant had moved from Florida and wanted to start a hunting club. (Id) According to Nash he thought that was outrageous, people did not have hunting clubs in the west and that you couldn't even hunt in the Lake County area except for coyotes. (W. Nash Deposition pg 7) Although, Wade Nash may have thought the idea of a hunting club was outrageous, Wade Nash has participated in numerous hunting camps with Defendant, Dan Duryee. (Duryee Deposition pg 9) Not only have there been hunting camps, there has been hunting camps every year for at least 12 years. (Id) Only certain Sheriff Deputies and Police Officers were invited and at times as many as 15 to 17 officers would show up. (Duryee Deposition pg 10)

64. Dan Duryee's ex wife, Jennifer Philips, testified at the POST Certification Hearing. Ms. Philips testified that she was not eager to testify and that she dreaded testifying because she was concerned about retribution from law enforcement officers in Lake County. (POST Transcript pg 225-226). In fact, Ms. Philips asked POST to increase patrol around her house because of her testimony. (POST Transcript pg 226)

At one point, during their marriage, Ms Philips talked to Mike Sargeant about Dan Duryee's supposed military service. (POST Transcript pg 232) She went to Sargeant because Sargeant and Duryee were best friends and Mike Sargeant was the best man at her wedding. When she talked to Sargeant about Duryee's supposed PTSD, she was told by Sargeant, that he had it covered "I know about it. We're

good.” (POST Transcript pg 232-233) Ms. Philips believes that Mike Sargeant knew that Dan Duryee had no military experience and was helping Duryee cover up his lies about his military service.(Id) She stated that Sargeant told her from the time that she had moved up to Lake County, that there was a brotherhood among the officers, that they had each other’s backs, and would look out for each other no matter what. (Id)

65. Ms. Philips testified that although she still has a house in Lake County she does not feel safe being in Lake County because she had heard “the famous quote that I heard from them is how can you break the law when you are the law.” When asked what she thought that meant, Ms. Philips testified that the law enforcement officers thought that they were untouchable in Lake County. (POST Transcript pg 240)

66. Wade Nash, though, became concerned when he saw the website which was making an issue of the “coyote club”. According to Mr. Nash, he was trying to find out who was running the anonymous website in June of 2010. (W. Nash Deposition pg 22) So he and Cory Anderson, another deputy sheriff, called Michael Sargeant’s ex girlfriend at approximately 1 o’clock in the morning, Nash said he called the ex girlfriend because he believed that only Mike Sargeant, he and her knew about the name “coyote club”. (W. Nash Deposition pgs 23-24, and 55-56)

When Wade Nash gave a deposition to the POST Council he stated that there were allegations about a coyote club on a website of concerned citizens in Lake County in June and “there are only a couple of people that know anything about the coyote club, one is [Mike Sargeant’s girlfriend] and one was Mike Sargeant because

they lived together and had a relationship together and all of a sudden that coyote club thing comes up and is on the website.” (POST W. Nash Deposition pg 19) Wade Nash then went on to state that he was seeking information “about an investigation of a coyote club, that if they didn’t fire people, that would happen.” (Post W. Nash Deposition pgs 21-22) Then Nash stated “there are allegations that there is an illegal hunting club within Lake County, that is what I was asking about, because it showed up on this website. There was two people who ever knew anything about the coyote club and somehow that information got onto that website.” (POST W. Nash Deposition pg 22) Further, Nash was concerned that the girlfriend could have been behind the website, “because she knew about the coyote club”. (POST Council Deposition pg 23) Nash admitted that he wanted the website to go away. (POST Deposition pg 24). The woman later called Steve Kendley who was a friend and told him of the threatening call. Kendley then told Bowen.

67. After finding out about the threatening phone made by Wade Nash and Lake County Sheriff’s Deputy Cory Anderson, Warden Frank Bowen began an investigation into the intimidation and tampering with witnesses.

Warden Bowen on behalf of the Montana Fish Wildlife & Parks (FWP) referred the matter to the Ravalli County Attorney’s Office for prosecution of witness tampering and Obstructing Justice regarding the investigation into the coyote club and poaching activities. The referral was sent on August 5th, 2012 (see Exhibit NN)

68. In January, 2012 Bowen had sent a referral to the Beaverhead County Attorney for investigation of Polson Police Chief, Wade Nash and Deputy, Clint Cottle for the unlawful hunting or tagging of a game animal as well as unlawful transportation of an illegally taken game animal. (See Exhibit OO) Bowen forwarded further information to the Beaverhead County Attorney on August 5th, 2012. (Exhibit PP)

After the referral was made to the Beaverhead County Attorney's Office, Lake County Attorney, Mitch Young involved himself in attempting to derail the prosecution. On March 1st, 2012 Lake County Attorney, Mitch Young sent to the FWP, a long email detailing what Young considered to be Warden Bowen's deficiencies in his investigations. (Exhibit QQ) It was obvious that the Lake County Attorney was attempting to derail the investigation and prosecution as he sent it to not only to FWP but also to Sheriff Jay Doyle the boss of one of the suspects, and also to the County Attorney of Beaverhead County. This placed all of Bowen's investigations on hold until the allegations by Lake Co Attorney, Mitch Young could be investigated. The internal investigation was assigned to Warden Captain Jeff Darrah. Darrah's investigations and report completely exonerated Warden Bowen of any possible wrong doing. Pg 12 of the report states "personally, I feel that County Attorney, Mitch Young was trying to kill Frank Bowen's credibility and thus have this case go away with possibly several others." (Exhibit RR pg 12)

Not only has County Attorney, Mitch Young made wild accusations about Frank Bowen, he refuses to prosecute any case that Bowen brings in Lake County. (Bowen Deposition pg 60-61)

County Attorney, Mitch Young considers himself to be not only Attorney for the County, but also the Attorney for the individual Defendants. During Kendley's deposition, Mitch Young appeared on behalf of the Defendants. (Kendley Deposition pg 2) Of course, the County of Lake is not a Defendant, there are only individual Defendants.

DATED this 24th day of May, 2013.

TIPP & BULEY, P.C.

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Certificate of Service

I hereby certify that, on this 24th day of May, 2013, a true and correct copy of the foregoing pleading was served on each of the following persons through the following means:

1,2 CM/ECF

1. Clerk, US District Court
2. Gregory L. Bonilla
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Counsel for Defendants

/s/ Richard R. Buley
Tipp & Buley, P.C.